

With respect to loan objectives as stated in paragraph (a) of this section, and in accordance with paragraph (f)(2) of this section, whether the borrower receives a direct or guaranteed OL loan during the commitment period will depend on the borrower's financial condition, the projected 5-year plan of operation, and the availability of credit.

(j) *Completion of the 10-year commitment period.* If the borrower is unable to graduate to other credit without the Agency's assistance, Agency may provide direct or guaranteed loan assistance subject to the lifetime loan limitations set forth in § 1941.17 of this subpart and § 1980.175 (d) of subpart B of part 1980 of this chapter and all other loan making regulations of this chapter.

(k) *Agency certification.* A special beginning farmer OL application will only be considered after the applicant submits a complete 5-year plan of operation and a projection of the financial status of the operation as set forth in paragraph (e) of this section. In addition to the requirements of § 1941.30, the following conditions apply:

(1) Agency certifications of eligibility under paragraph (b) of this section are effective throughout the commitment period.

(2) For subsequent loan requests during the commitment period, the Agency will certify as to the applicant meeting the eligibility requirements for the regular direct or guaranteed OL loan programs, as appropriate. Such certification is unnecessary if a 5-year eligibility certification has not yet expired unless the County Supervisor has determined that the applicant's situation has changed such that the eligibility determination would potentially be affected. If recertification is rejected, no subsequent loan will be made under the commitment and the commitment will be revoked in accordance with paragraph (h) of this section.

(l) *Loan approval or disapproval.* In addition to the requirements of § 1941.33 of this subpart, it must be determined that:

(1) *Initial loans.* (i) The plan of operation reflects that farm income is sufficient to cover farm operating expenses, replacement of capital items, debt service, and that part of living ex-

penses not covered by nonfarm income (if any) for each year. Nonfarm income cannot be relied on to cover farm expenses or debt service.

(ii) At the end of the commitment period the operation will project financial viability without further assistance from FmHA or its successor agency under Public Law 103-354, and the identified goals are reasonable and practicable.

(2) *Subsequent loans.* Subsequent loans will be approved or disapproved in accordance with FmHA Form Letter 1941-A-2 and paragraph (f) of this section.

[58 FR 48284, Sept. 15, 1993, as amended at 61 FR 35925, July 9, 1996]

§ 1941.16 Loan purposes.

Except for entity borrowers, 10 percent or \$5,000, whichever is less, of any OL loan will be placed in a non-supervised bank account of the borrower's choosing at loan closing. These funds will be used at the borrower's discretion for family living needs or other purposes agreed upon in the farm plan(s) of operation. Loans may be made for farm, forestry, recreation, and nonfarm enterprises or modest rural youth projects for the following purposes, when such purposes are essential to the operation:

(a) Purchase of farm machinery and equipment, livestock, poultry, fur bearing and other farm animals, fish, poultry, bees, tools, and inventories, or to purchase an individual's undivided interest in such items.

(b) Payment of annual operating expenses.

(c) Payment of family living expenses.

(d) Refinancing debts incurred for any authorized operating loan purpose other than FmHA or its successor agency under Public Law 103-354 debts.

(e) Purchase of membership and stock in a farm purchasing, marketing, or service-type cooperative association, including a grazing association.

(f) Purchase and repair of essential home equipment.

(g) Purchase of a milk base or milk quota with or without cows.

(h) Not more than \$15,000 in a fiscal year for real estate improvements or repairs. The following determinations

must be made before an OL loan is made for real estate improvements:

(1) OL loans will not be needed year after year for this purpose.

(2) The applicant owns the farm or has tenure arrangements, including a compensation agreement, sufficient to obtain a reasonable return on the investment.

(i) Payments to a creditor. In any one year, OL funds used to make these payments cannot exceed 20 percent of the appraised market value of the essential farm and nonfarm equipment and livestock under a prior lien to that creditor, or 20 percent of the amount owed to such creditor, whichever is less.

(j) Purchase of a franchise, contract, or privilege when necessary to the operation of the planned enterprise.

(k) Partial payment for the purchase and construction of crop storage and drying facilities when the Commodity Credit Corporation, through the FSA Farm Programs (formerly Agricultural Stabilization and Conservation Service), is providing a part of the credit under the Commodity Credit Corporation Farm Storage and Drying Equipment Loan Program.

(l) Payment of costs for training farmer program borrowers, particularly limited resource borrowers, in recordkeeping for farming and ranching operations. The loan approval official must determine that the training will meet the objectives of the loan program, assist the borrower in his/her recordkeeping and management responsibilities, and that costs are reasonable.

(m) To plant softwood timber on marginal land which was previously used to produce an agricultural commodity or as pasture.

[53 FR 35684, Sept. 14, 1988, as amended at 61 FR 35925, July 9, 1996]

§ 1941.17 Loan limitations.

An OL loan will not be approved:

(a) If the applicant:

(1) Received direct OL loans after October 28, 1992, and the sum of all calendar years those direct OL loans were outstanding (including any extension of terms through loan servicing or bankruptcy) is more than 10. The borrower, however, could still receive as-

sistance in the following Example: A borrower received a 1-year, direct OL on February 1, 1993, and repaid it on December 15, 1993. The borrower does not apply for any more direct OL loans until the year 1996. This borrower still has 9 years in which new direct OL loans may be closed. The repayment term on any loan may extend beyond the 10-year eligibility limit as long as the loan is closed within the 10-year time period. Multiple loans outstanding in a given year count only as 1 year of eligibility. A loan outstanding in any portion of a year will be counted as a full year. For example, had this borrower repaid the OL loan on January 2, 1994, only 8 years of eligibility would remain.

(2) Received direct and/or guaranteed OL loans after October 28, 1992, and the sum of all calendar years that any combination of those loans were outstanding (including any extension of terms through loan servicing or bankruptcy) is more than 15. The borrower, however, could still receive assistance in the following Example: On February 1, 1993, a borrower obtains the first of 8 consecutive direct annual OL loans. In year 9, the borrower obtains a 7-year guaranteed OL loan. A few months prior to the end of the 15th year of having OL loans/guarantees outstanding, the borrower applies for a 7-year direct OL loan. This borrower is eligible providing the loan can be closed within the 15th year of eligibility. The repayment term on the loan may extend beyond the 15-year eligibility limit. Multiple loans outstanding in a given year count only as 1 year of eligibility. A loan outstanding in any portion of a year is counted as a full year.

(3) As of October 28, 1992, had one or more direct OL loans outstanding during each of the last 5 calendar years (January 1, 1988–October 28, 1992) and has had direct and/or guaranteed OL loans made after October 28, 1992, that have been outstanding for a sum of more than 5 calendar years (including any extension of terms through loan servicing or bankruptcy) since that date. The borrower, however, could still receive assistance in the following Example: A borrower had one direct OL loan outstanding on October 28, 1992, and had one direct OL loan outstanding